

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

DR 1999-092068

07/10/2007

HONORABLE BRUCE R. COHEN

CLERK OF THE COURT

C. Gauna

Deputy

IN RE THE MATTER OF  
KIMBERLY JEAN MARTIN

KIMBERLY JEAN MARTIN  
17012 S 27TH PL  
PHOENIX AZ 85048

AND

JOHN THOMAS AGUILAR

JOHN THOMAS AGUILAR  
182 S 17TH ST  
COOLIDGE AZ 85228

FAMILY COURT SERVICES-CCC

**EVIDENTIARY HEARING**

Courtroom 304-SE

8:37 a.m. This is the time set for Evidentiary Hearing. Petitioner, Kimberly Jean Martin, is present on her own behalf. Respondent, John Thomas Aguilar, is present on his own behalf.

A digital audio recording of this proceeding is being made by "For The Record" in lieu of a court reporter.

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Kimberly Jean Martin and John Thomas Aguilar are sworn and testify.

The parties' existing parenting orders were entered as part of the final Decree in December 2000. The orders have not been modified despite changes experienced by both parents. This includes Father having moved to Coolidge and Mother residing in Ahwatukee. It is therefore appropriate to revisit the existing orders and to make appropriate changes thereto.

The parties have reached agreements on certain issues and presented testimony and argument regarding the contested issues. After considering their positions and agreements,

**IT IS ORDERED** as follows:

1. Legal Custody: The parties shall continue to maintain joint legal custody of the minor children. They shall continue to reside primarily with Mother during the school year.
2. Summer Schedule: For eight weeks of the children's summer vacation from school, each parent shall be entitled to four weeks of parenting time. This may be exercised in blocks of time of either one week or two consecutive weeks. In addition to his four weeks of parenting time during the summer, Father is entitled to three additional weekends (Friday to Sunday). The exact dates shall be agreed to between the parties.
3. Fall Break/Spring Break: Each academic year (August through May), one parent shall be entitled to have the children for the entirety of Fall Break and the other parent shall be entitled to have the children for the entirety of Spring Break. The parents shall confer before the start of the upcoming academic school year and shall decide by August 15<sup>th</sup> of that year which parent shall be entitled to which school break.
4. Easter Sunday: In even-numbered years, Father shall be entitled to have the children on Easter Sunday from 10:00 a.m. to 8:00 p.m. Mother shall be entitled to this same time period in odd-numbered years.
5. Halloween: In place of a formal allocation of time, the parties shall confer with the children in determining which parent may exercise time for Halloween. It is expected that each parent shall have the opportunity to spend some time with the children in alternating years. However, it is recognized that the children have reached an age in which their peer activities for Halloween will have growing importance.

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6. Christmas: The parties shall continue to be entitled to one week each with the children during their Christmas break from school. As for Christmas Eve and Christmas Day, Father shall have the children each year on December 24<sup>th</sup>, commencing at or after 12:00 noon. In even-numbered years, he shall return the children to Mother at 8:00 p.m. on December 24<sup>th</sup>. In odd-numbered years, the exchanges shall occur at 11:00 a.m. on December 25<sup>th</sup>. Mother shall then have the children for Christmas Day, which in even years shall begin at 8:00 p.m. on December 24<sup>th</sup> and in odd-numbered years it shall begin at 11:00 a.m. on December 25<sup>th</sup>.
7. School Year Parenting Time: During the school year (except during school vacations and holidays), the following schedule shall apply:
  - Weekends: Father shall be entitled to alternating weekends from Friday at 6:00 p.m. until Sunday at 6:00 p.m.
  - Weekdays: Each week, Father shall have parenting time with the children on Tuesday from approximately 5:30 pm until 8:00 p.m. Alternatively, if the children are in organized activities, this parenting time may occur on Wednesday. In addition, Father shall have parenting time in alternating weeks immediately before Mother's weekend (if Father is exercising Tuesday parenting time). Therefore, he will have the children on Thursday from 5:30 p.m. until 8:00 p.m., assuming he is utilizing the Tuesday schedule each week. If, however, Father is exercising the Wednesday schedule, his alternating weekly parenting time shall occur on the Monday that immediately follows Mother's weekend.
8. Care Taker of Choice: The prior provision which allowed the other parent to care for the children in the absence of the assigned parent is rescinded.
9. Transportation: At the end of Father's alternating weekends, Mother shall pick up the children from Father's home on Sunday at approximately 6:00 p.m. Further, for the summer exchanges when the parents are alternating weeks or every two weeks, the parent who is gaining access to the children shall pick up the children from the other parent's home. Father shall be responsible for all other transporting of the children.

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**CHILD SUPPORT**

For child support purposes, the Court makes the following findings:

Mother's Income	\$1780.00 <sup>1</sup>
Father's Income	\$5220.00
Adjustments to Father's Income	\$0
Adjustments to Mother's Income	\$0 <sup>2</sup>
Health Insurance Paid by Father	\$0
Parenting Time Adjustment	19.5 %

In applying these findings under the Arizona Child Support Guidelines,

**IT IS ORDERED that Father shall pay child support to Mother in the total amount of \$725.00 per month, commencing July 2007.** All payments shall be made through the Support Clearinghouse via an automatic Order of Assignment issued this date. Father is advised that until such time as the Order of Assignment becomes effective, Father has an affirmative obligation to pay the child support directly to the Support Clearinghouse.

All obligations for child support for each shall terminate when the children each attain the age of 18 years or are otherwise emancipated, but in the event any child attains the age of 18 years while attending high school, support shall continue to be provided during the period in which said child is actually attending high school but only until the child reaches 19 years of age. Provisions for health insurance and non-insured health expenses for the children, as provided for below, shall be deemed to be additional child support and shall be enforceable as such.

Pursuant to A.R.S. §25-503(I), the right of a parent, guardian or custodian to receive child support payments as provided herein vests as each installment falls due. Each vested child support installment is enforceable as a final judgment by operation of law.

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<sup>1</sup> This is for part-time income as a teacher. The Court finds that at this time such is in the best interest of the children.

<sup>2</sup> Under the Guidelines Mother could be entitled to a discretionary adjustment to her income of \$386.00 to account for her two year old child. However, since only part-time income is attributed and none of Mother's husband's income is considered herein, the Court elects not to exercise the discretionary adjustment to mother's income.

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Mother has sought a retroactive award. By statute, she is entitled to that relief. The effective date for increase would be April 2007. Based upon the findings herein, Father would owe to Mother the sum of \$600.00 representing the \$200.00 per month increase for the months of April, May and June 2007. It is noted that this is not an arrears finding but rather, solely the result of the retroactive increase in child support. Father may make incremental or lump sum payments totaling \$600.00, with the full amount paid by no later than September 30, 2007. His payments shall be made directly to the Support Clearinghouse and not as part of the Order of Assignment.

**IT IS FURTHER ORDERED** signing this minute entry as a formal order of this Court pursuant to Rule 81(D), Arizona Rules of Family Law Procedure.

10:04 a.m. Matter concludes.

FILED: Child Support Worksheet, Modified Order of Assignment

/ S / HONORABLE BRUCE R. COHEN

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BRUCE R. COHEN  
JUDICIAL OFFICER OF THE SUPERIOR COURT

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/ssc/sschome.html>.

Attachments:

JOHN THOMAS AGUILAR: Current Employer Information